IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF PENNSYLVANIA

YVETTE CLARK	:	CIVIL ACTION
Plaintiff,	:	
v.	:	No. 06-0945
THE HARTFORD LIFE AND ACCIDENT INSURANCE CO.	:	
Defendant.	:	

MEMORANDUM

ROBERT F. KELLY, Sr. J. **NOVEMBER 17, 2006**

Plaintiff Yvette Clark ("Clark") seeks to recover from Defendant, The Hartford Life and Accident Insurance Co. ("Hartford"), on a dependent group life insurance policy following the death of her son, Abdul Karim Clark ("Abdul Karim"). Clark brings this claim under the Employee Retirement Income Security Act of 1974 ("ERISA"), 29 U.S.C. § 1001, et seq. Presently before this Court is Hartford's Motion for Summary Judgment. For the following reasons, Hartford's Motion is granted.

I. BACKGROUND

In 1991, Clark was an employee of SmithKline Beecham. Through her employer, Clark enrolled in a dependent group life insurance policy from Hartford to cover her son, Abdul Karim. Abdul Karim was born on July 8, 1979 and died on November 24, 2004, at the age of 25.

After her son's death, Clark made a claim with Hartford for the dependent life insurance benefits. On June 7, 2005, Clark's attorney submitted to Hartford a Proof of Death - Dependent Claim Form and Abdul Karim's Death Certificate. On August 29, 2005, Susan Brettman, an

Examiner at Hartford, informed Clark that her claim was reviewed and was denied because her son was not covered under the policy at the time of his death.

Under the dependent group life insurance policy in question, "Dependent" is defined as:

> 1. Your spouse; and
> 2. Your unmarried child:
>   a) from live birth to age 19 years; or
>   b) who is 19, but has not yet attained age 26, is primarily dependent upon You for financial support and attends an accredited school (other than a correspondence school) on a regular and Full-time student basis as his principal activity; or
>   c) who is 19 years old or older, and is disabled and primarily dependent upon You for financial support. Such child must have become disabled before attaining age 19.

(Hartford's Answer, Ex. A, at 15). A covered Dependent's insurance terminates on the earliest of the following dates: (1) the date the employee's coverage terminates; (2) the last day of the period for which any required premium contribution is made, if employee fails to make any further required contribution; (3) the date the employee is no longer eligible for Dependent coverage; (4) the date the Dependent no longer meets the above-stated definition of Dependent; or (5) the date Hartford or the employer terminates Dependent coverage. (Id., at 13). The policy also has exceptions to termination of Dependent coverage, which state that:

> If a covered Dependent child reaches the age at which He would have otherwise ceased to be a Dependent as defined, and the Dependent child is:
> 1. disabled and incapable of earning His own living; and
> 2. unmarried and primarily dependent on You for support and maintenance,
>
> then Dependent coverage will not terminate solely due to age if You submit satisfactory proof of the Dependent child's disability . . . .

(Id.). Ms. Brettman stated in her letter that Abdul Karim's Death Certificate indicated that he was 25 years old at the time of death, that he was married, and that he was employed as a barber. (Hartford's Mot. Summ. J., Ex. B). She also indicated that Hartford's "records do not show a

submission requesting continuation under the Exceptions to Termination due to a disability." (Id.). Therefore, Ms. Brettman wrote that "[s]ince Abdul Karim Clark died after his coverage under the Dependent group life insurance Policy through SmithKline Beecham terminated [,] no Dependent Group Life Insurance benefits are payable."[1] (Id.).

After being denied these benefits, Clark filed suit against Hartford in the Philadelphia Municipal Court, Philadelphia County, Pennsylvania. On March 2, 2006, Hartford filed and served a Notice of Removal in this Court. The basis of the removal was that the dependent group life insurance policy in question is part of an employee welfare benefit plan that falls under ERISA and her claim is therefore preempted. Accordingly, this action was removed to this Court. On March 27, 2006, Clark filed a document entitled "Plaintiff's Answer to Notice of Removal" requesting that this Court deny Hartford's Notice of Removal. On May 1, 2006, this Court, treating Clark's "Answer to Notice of Removal" as a Motion to Remand, entered an Order denying that motion and ordered Clark to file a Complaint in accordance with the Federal Rules of Civil Procedure. Clark filed a Complaint with this Court demanding specific performance of the life insurance policy in question. On October 10, 2006, Hartford filed this present Motion for Summary Judgment. For the reasons stated below, Hartford's Motion is granted.

II. SUMMARY JUDGMENT STANDARD

"Summary judgment is appropriate when, after considering the evidence in the light most favorable to the nonmoving party, no genuine issue of material fact remains in dispute and 'the moving party is entitled to judgment as a matter of law.'" Hines v. Consol. Rail Corp., 926 F.2d

[1] It should be noted that Ms. Brettman's letter also stated that Clark should "[p]lease contact [her] representative at SmithKline Beecham for a possible reimbursement of premiums that may have been paid to The Hartford for this coverage." (Hartford's Mot. Summ. J., Ex. B).

262, 267 (3d Cir. 1991) (citations omitted). The inquiry is "whether the evidence presents a sufficient disagreement to require submission to the jury or whether it is so one-sided that one party must prevail as a matter of law." Anderson v. Liberty Lobby, Inc., 477 U.S. 242, 251-52 (1986). The moving party carries the initial burden of demonstrating the absence of any genuine issues of material fact. Big Apple BMW, Inc. v. BMW of N. Am. Inc., 974 F.2d 1358, 1362 (3d Cir. 1992). "A fact is material if it could affect the outcome of the suit after applying the substantive law. Further, a dispute over a material fact must be 'genuine,' i.e., the evidence must be such 'that a reasonable jury could return a verdict in favor of the non-moving party.'" Compton v. Nat'l League of Prof'l Baseball Clubs, 995 F. Supp. 554, 561 n.14 (E.D. Pa. 1998), aff'd, 172 F.3d 40 (3d Cir. 1998) (citations omitted). Once the moving party has produced evidence in support of summary judgment, the non-moving party must go beyond the allegations set forth in its pleadings and counter with evidence that demonstrates that there is a genuine issue of fact for trial. See Big Apple BMW, at 1362-63. Summary judgment must be granted "against a party who fails to make a showing sufficient to establish the existence of an element essential to that party's case, and on which that party will bear the burden of proof at trial." Celotex Corp. v. Catrett, 477 U.S. 317, 322 (1986).

III. REVIEW OF ERISA CLAIMS

A participant or a beneficiary under an ERISA plan may bring a civil action "to recover benefits due to him under the terms of his plan, to enforce his rights under the terms of the plan, or to clarify his rights to future benefits under the terms of the plan." 29 U.S.C. § 1132(a)(1)(B). This Court reviews a denial of these benefits "under a *de novo* standard unless the benefit plan gives the administrator or fiduciary discretionary authority to determine eligibility for benefits or

to construe the terms of the plan." Firestone Tire and Rubber Co. v. Bruch, 489 U.S. 101, 115 (1989); Abnathya v. Hoffmann-La Roche, Inc., 2 F.3d 40, 44 (3d. Cir. 1993). When the plan administrator does have discretionary authority, the Court reviews a denial of benefits "[u]nder the arbitrary and capricious (or abuse of discretion) standard of review."[2] Id. at 45. Under that standard, the Court may overturn the plan administrator's decision "only if it is 'without reason, unsupported by substantial evidence or erroneous as a matter of law.'" Id. This scope of review is narrow and this Court may not substitute its own judgment for that of the defendants in determining eligibility for benefits. Id.

If a benefit plan gives discretion to a plan administrator or fiduciary who is operating under a conflict of interest, that conflict must be weighed as a factor in determining whether there is an abuse of discretion. Firestone, 489 U.S. at 115. "[W]hen an insurance company both funds and administers benefits, it is generally acting under a conflict that warrants a heightened form of the arbitrary and capricious standard." Pinto v. Reliance Std. Life Ins. Co., 214 F.3d 377, 378 (3d. Cir. 2000). The United States Court of Appeals for the Third Circuit uses a sliding scale approach whereas the intensity of the review is calibrated to the intensity of the conflict. Id. at 393. Absent other evidence of bias, however, this Court "should engage in no more than a modicum of additional scrutiny." Lasser v. Reliance Std. Life Ins. Co., 146 F. Supp. 2d 619, 623 (D. N.J. 2001); see also Thompson-Harmina v. Reliance Std. Life Ins. Co., No. 04-425, 2004 WL 2700342, *3 (E.D. Pa. Nov. 23, 2004) (applying only a slightly heightened standard of review because mere generalization that insurer saves money and profits if a claim is denied is

[2] "The 'arbitrary and capricious' standard is essentially the same as the 'abuse of discretion' standard." Id. at 45 n.4.

insufficient to establish a financial conflict of interest). A slightly heightened arbitrary and capricious standard of review will be used in this case.[3]

IV. DISCUSSION

Hartford argues that the ultimate issue in this case is whether Hartford acted arbitrarily and capriciously when it made its determination that Clark's son, Abdul Karim, was not covered for dependent group life insurance at the time of his death. According to Hartford, because it has full discretion and authority under the policy in question to determine eligibility and to construe and interpret policy terms, this Court must not review the decision *de novo*, but rather must apply "the arbitrary and capricious (or abuse of discretion) standard of review." Abnathya, 2 F.3d at 45. Hartford argues that no material facts are in dispute that Abdul Karim was 25 years old at the time of his death, that he was married, and that he was a barber. Applying these facts to the terms of the policy, he did not meet the definition of a Dependent and Hartford's denial of benefits was reasonable, supported by substantial evidence, and not arbitrary and capricious.

Clark agrees with Hartford that it had discretionary authority to determine eligibility for benefits and to construe the terms of the plan and that this Court must review Hartford's denial of benefits under the arbitrary and capricious standard.[4] What Clark argues is that Hartford's decision does not meet this standard because it is erroneous as a matter of law based upon the

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[3] It is important to note that the issue of a heightened arbitrary and capricious standard of review was not fully addressed by the parties. Hartford briefly raised the issue in its Summary Judgment Motion, but Clark never addressed it in her response. She never provided any evidence of bias, and thus never argued whether this dependent group life policy, administered by Hartford, requires some heightened review analysis under Pinto. Instead, Clark clearly states that she believes the arbitrary and capricious standard should apply. Accordingly, this Court will apply only a slightly heightened arbitrary and capricious standard.

[4] The policy clearly stated that "We [Hartford] have full discretion and authority to determine eligibility for benefits and to construe and interpret all terms and provisions of the Policy." (Hartford's Answer, Ex. A, at 14).

legal doctrine of equitable or promissory estoppel. Her estoppel argument is that Hartford induced her to pay premiums for the dependent group life policy on her son for over 13 years until his death; Hartford never informed her of the terms and conditions of the policy; she detrimentally relied and rightfully expected to receive the proceeds of the policy because she kept paying the premiums; and injustice can only be avoided by enforcing the promise made by Hartford to pay the life insurance benefits.

Clark, however, cannot raise an equitable estoppel claim here because ERISA preempts it. ERISA broadly preempts all state laws that "relate to any employee benefit plan" covered by ERISA. 29 U.S.C. § 1144(a). "A law 'relates to' an employee benefit plan, in the normal sense of the phrase, if it has a connection with or reference to such a plan." Ingersoll-Rand Co. v. McClendon, 498 U.S. 133, 139 (1990). ERISA preemption is not limited to state laws specifically designed to affect employee benefit plans. Id.; Charter Fairmont Inst., Inc. v. Alta Health Strategies, 835 F. Supp. 233, 239 (E.D. Pa. 1993) (quoting Ingersoll-Rand). Courts have preempted state common law claims, such as Clark's estoppel claim, that relate to employee benefit plans. Hartman v. Wilkes-Barre Gen. Hosp., 237 F. Supp. 2d 552, 556 (M.D. Pa. 2002) (holding that plaintiff's breach of contract, unjust enrichment, promissory estoppel, and duty of good faith and fair dealing state law claims are preempted by ERISA because they relate to ERISA benefit plan); Charter Fairmont Inst., 835 F. Supp. at 239-40 (stating that numerous courts within Third Circuit have held state common law claims, such as estoppel, misrepresentation, and negligent misrepresentation, as preempted by ERISA). In 1975 Salaried Ret. Plan v. Nobers, 968 F.2d 401, 406 (3d Cir. 1992), the Third Circuit found that a state law claim was preempted by ERISA because the existence of an ERISA plan was critical to establish

liability, and the court's inquiry would be directed to the plan. Wassil v. Advanced Tech. Laboratories, No. 95-6777, 1996 WL 238688, * 2 (E.D. Pa. May 7, 1996). Here, Clark's estoppel claim arose because of the denial of benefits under an ERISA plan. The existence of the plan created the alleged liability and this Court's analysis would be directed to the plan itself. Thus, Clark's equitable or promissory estoppel claim relates to an employee benefit plan and is preempted.[5]

Moreover, Clark is improperly trying to recast a state common law claim of equitable estoppel as a violation of the arbitrary and capricious standard of review. As stated above, the arbitrary and capricious standard of review states that this Court may overturn Hartford's decision only if it is "without reason, unsupported by substantial evidence or erroneous as a matter of law." Abnathya, 2 F.3d at 45. Here, Clark is arguing that Hartford's denial of benefits is "erroneous as a matter of law" because equitable estoppel should apply to her case. This argument, however, is nothing more than Clark advancing a preempted equitable estoppel claim under Pennsylvania law and inserting it into the "erroneous as a matter of law" language within the description of the arbitrary and capricious standard of review.

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[5] An equitable estoppel claim can be brought under ERISA; however, Clark did not do that here. See 29 U.S.C. § 1132(3)(B)(stating that civil action may be brought by participant, beneficiary, or fiduciary to obtain other appropriate equitable relief to redress ERISA violations or enforce any provisions of ERISA or terms of benefit plan). To establish equitable estoppel under ERISA, the plaintiff must show that (1) the defendant made a material misrepresentation; (2) the plaintiff relied on that misrepresentation to his or her detriment; and (3) "extraordinary circumstances" existed. Smith v. Hartford Ins. Group, 6 F.3d 131, 137 (3d Cir. 1993). The plaintiff must plead "extraordinary circumstances," which is not an element of a state law estoppel claim, to state a claim for equitable estoppel under ERISA. Esfahani v. Medical College of PA, 919 F. Supp. 832, 838 (E.D. Pa. 1996). Here, Clark's Complaint lacked any pleading of an equitable estoppel claim, let alone any pleading of extraordinary circumstances. Moreover, while the Third Circuit has not provided a rigid definition of "extraordinary circumstances," it has stated "'extraordinary circumstances' generally involve acts of bad faith on the part of the employer, attempts to actively conceal a significant change in policy, or commission of fraud." Jordan v. Fed. Express Corp., 116 F.3d 1005, 1011 (3d Cir. 1997). Because there is no evidence of bad faith, concealment, or fraud on the part of Hartford, Clark cannot establish an equitable estoppel claim under ERISA.

Applying a slightly heightened arbitrary and capricious standard of review, this Court finds that Hartford's denial of benefits was not "without reason, unsupported by substantial evidence or erroneous as matter of law." Abnathya, 2 F.3d at 45. First, there are no material facts in dispute. Abdul Karim's Death Certificate shows that he was 25 years old at the time of his death; that he was married to Jamila Hamler; and his occupation was as a barber. (Hartford's Mot. Summ. J., Ex. A). Clark does not contest any of these facts in her opposition to this present summary judgment motion.

Second, applying these facts to the terms of the policy, Hartford correctly determined that Abdul Karim was not eligible for coverage. The relevant terms of the policy mentioned in the background section above are unambiguous. See In re Unisys Corp. Long Term Disability Plan ERISA Litigation, 97 F.3d 710, 715 (3d Cir. 1996) ("Whether an ERISA plan is ambiguous is a question of law."). The policy's definition of Dependent clearly states that a Dependent has to be unmarried. Abdul Karim was married. The policy's definition of Dependent also clearly states that the unmarried child is covered from live birth to age 19 and if over the age of 19, the unmarried child is only covered if he or she is primarily dependent on the employee for financial support and either is a full-time student at an accredited school or is disabled. (Hartford's Answer, Ex. A, at 15). From the evidence in the Death Certificate, Abdul Karim, a married 25 year old barber, does not fit into this definition of Dependent. Clark provided no further evidence to show full-time student status, disability, or her son's financial dependence on her. In addition, no evidence was provided that Abdul Karim fit into an exception from termination of dependent coverage. (Id. at 13). Therefore, Hartford's denial of benefits was not arbitrary or capricious because Hartford applied the uncontroverted facts to the unambiguous language of the

policy and made the right determination. Since there are no genuine issues of material fact and Hartford is entitled to judgment as a matter of law, this Motion for Summary Judgment is granted.

An appropriate Order follows.

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Defendant.	:	

O R D E R

AND NOW this 17th day of November, 2006, upon consideration of the Motion for Summary Judgment of Defendant The Hartford Life and Accident Insurance Company, and the Responses and Replies thereto, it is hereby **ORDERED** that the Defendant's Motion for Summary Judgment (Doc. No. 12) is **GRANTED**.

BY THE COURT:

/s/ Robert F. Kelly
ROBERT F. KELLY, Sr. J.